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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-870, C-570-035, C-542-801]

Certain New Pneumatic Off-The-Road Tires from India, the People's Republic of China, and Sri Lanka: Initiation of Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective date: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Spencer Toubia at (202) 482-0123 (India); Laurel LaCivita at (202) 482-4243 (People's Republic of China); and Elizabeth Eastwood at (202) 482-3874 (Sri Lanka); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On January 8, 2016, the Department of Commerce (Department) received countervailing duty (CVD) petitions concerning imports of certain new pneumatic off-the-road tires (off road tires) from India, the People's Republic of China (PRC), and Sri Lanka, filed in proper form on behalf of Titan Tire Corporation (Titan) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (USW) (collectively, Petitioners).<sup>1</sup> The CVD petitions were accompanied by antidumping

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<sup>1</sup> See "Petitions for the Imposition of Antidumping Duties on Imports of Certain New Pneumatic Off-the-Road Tires from India and the People's Republic of China and Countervailing Duties on Imports of Certain New Pneumatic Off-the-Road Tires from India, the People's Republic of China, and Sri Lanka," dated January 8, 2016 (collectively, Petitions).

duty (AD) petitions for India and the PRC.<sup>2</sup> Petitioners are a domestic producer of off road tires and a recognized union, which represents the domestic industry engaged in the manufacture of off road tires in the United States.<sup>3</sup>

On January 12, 2016, the Department requested information and clarification for certain areas of the Petitions.<sup>4</sup> Petitioners filed responses to these requests on January 14, 2016,<sup>5</sup> and provided further clarification regarding scope on January 20, 2016.<sup>6</sup> On January 21, 2016, ATC Tires Private Ltd. and Alliance Tire Americas, Inc. (collectively, Alliance) provided comments on domestic industry support and requested that the Department poll the domestic industry with respect to the Petitions.<sup>7</sup> On January 22, 2016, Petitioners provided a response to Alliance's comments on industry support and request for polling.<sup>8</sup> Alliance provided additional comments

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<sup>2</sup> *Id.*

<sup>3</sup> See Volume I of the Petitions, at 1-2.

<sup>4</sup> See the following January 12, 2016, letters from the Department to the Petitioners: "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain New Pneumatic Off-the-Road Tires from India and the People's Republic of China and Countervailing Duties on Imports from Sri Lanka: Supplemental Questions" (General Issues Supplemental Questionnaire), "Petition for the Imposition of Countervailing Duties on Imports of Certain New Pneumatic Off-the-Road Tires from India: Supplemental Questions," "Petition for the Imposition of Antidumping Duties on Imports of Certain New Pneumatic Off-the-Road Tires from the PRC: Supplemental Questions for Volume III," and "Petition for the Imposition of Countervailing Duties on Imports of Certain New Pneumatic Off-the-Road Tires from Sri Lanka: Supplemental Questions."

<sup>5</sup> See the following January 14, 2016, responses from Petitioners: "Petitioners' Response to the Department's January 12, 2016 Supplemental Questions Regarding General Issues" (General Issues Supplement); "Scope Supplement to the Petitions for the Imposition of Antidumping Duties on Imports of Certain New Pneumatic Off-the-Road Tires from India and the People's Republic of China and Countervailing Duties on Imports of Certain New Pneumatic Off-the-Road Tires from India, the People's Republic of China, and Sri Lanka" (First Scope Supplement); "Petitioners' Response to the Department's January 12, 2016 Supplemental Questions Regarding the Countervailing Duty Petition on India" (India Supplemental Response); "Petitioners' Response to the Department's January 12, 2016 Supplemental Questions Regarding the Countervailing Duty Petition on China" (PRC Supplemental Response); and "Petitioners' Response to the Department's January 12, 2016 Supplemental Questions Regarding the Countervailing Duty Petition on Sri Lanka" (Sri Lanka Supplemental Response).

<sup>6</sup> See Petitioners' submission, "Second Scope Supplement to the Petitions for the Imposition of Antidumping Duties on Imports of Certain New Pneumatic Off-the-Road Tires from India and the People's Republic of China and Countervailing Duties on Imports of Certain New Pneumatic Off-the-Road Tires from India, the People's Republic of China, and Sri Lanka," dated January 20, 2016 (Second Scope Supplement).

<sup>7</sup> See letter from Alliance, "Certain New Pneumatic Off-the-Road Tires from India, the People's Republic of China and Sri Lanka: Comments on Industry Support," dated January 21, 2016 (Alliance Letter).

<sup>8</sup> See letter from Petitioners, "Petitioners' Response to Alliance's Polling Request Regarding the Petitions for the Imposition of Antidumping Duties on Imports of Certain New Pneumatic Off-the-Road Tires from India and the People's Republic of China and Countervailing Duties on Imports of Certain New Pneumatic Off-the-Road Tires from India, the People's Republic of China, and Sri Lanka," dated January 22, 2016 ("Petitioners' Response to Alliance Letter").

on January 28, 2016.<sup>9</sup> On January 27, 2016, the Department determined to toll all deadlines four business days as a result of the Federal Government closure during snowstorm “Jonas”, applicable to this initiation.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the initiation of these CVD investigations is now February 3, 2016.<sup>10</sup>

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that the Government of India (GOI), the Government of China (GOC), and the Government of Sri Lanka (GOSL) are providing countervailable subsidies (within the meaning of sections 701 and 771(5) of the Act) to imports of off road tires from India, the PRC, and Sri Lanka, respectively, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 702(b)(1) of the Act, for those alleged programs in India, the PRC, and Sri Lanka on which we have initiated a CVD investigation, the Petitions are accompanied by information reasonably available to Petitioners supporting their allegation.

The Department finds that Petitioners filed these Petitions on behalf of the domestic industry because Petitioners are interested parties as defined in sections 771(9)(C) and (D) of the

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<sup>9</sup> See letter from Alliance, “Certain New Pneumatic Off-the-Road Tires from India, the People’s Republic of China and Sri Lanka: Reply Comments on Industry Support,” dated January 21, 2016 (“Alliance Letter II”).

<sup>10</sup> See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,” dated January 27, 2016.

Act. The Department also finds that Petitioners demonstrated sufficient industry support with respect to the initiation of the CVD investigations that Petitioners are requesting.<sup>11</sup>

#### Period of Investigation

Pursuant to 19 CFR 351.204(b)(2), because the Petitions were filed on January 8, 2016, the period of investigation is January 1, 2015, through December 31, 2015, for India, the PRC, and Sri Lanka.

#### Scope of the Investigations

The product covered by these investigations is off road tires from India, the PRC, and Sri Lanka. For a full description of the scope of these investigations, *see* the “Scope of the Investigations” in Appendix I of this notice. As explained in more detail in Appendix I, the scope of the PRC investigation is narrower than the scope of the investigations from India and Sri Lanka because the PRC investigation excludes any products covered by the existing antidumping and countervailing duty orders on Certain New Pneumatic Off-the-Road Tires from the PRC.<sup>12</sup>

#### Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, Petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>13</sup>

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<sup>11</sup> See the “Determination of Industry Support for the Petitions” section below.

<sup>12</sup> See *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 73 FR 51624 (September 4, 2008) (A-570-912), and *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Countervailing Duty Order*, 73 FR 51626 (September 4, 2008) (C-570-913).

<sup>13</sup> See General Issues Supplemental Questionnaire and First and Second Scope Supplements.

As discussed in the preamble to the Department's regulations,<sup>14</sup> we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The Department will consider all comments received from interested parties, and if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, February 23, 2016, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, March 4, 2016, which is 10 calendar days after the initial comments deadline.

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must also be filed on the record of each of the concurrent AD and CVD investigations.

#### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>15</sup> An electronically-filed document must be received successfully in its entirety by

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<sup>14</sup> *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>15</sup> *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

### Consultations

Pursuant to section 702(b)(4)(A)(i) of the Act, the Department notified representatives of the GOI, GOC, and GOSL of the receipt of the Petitions. Also, in accordance with section 702(b)(4)(A)(ii) of the Act, the Department provided representatives of the GOI, GOC, and GOSL the opportunity for consultations with respect to the CVD Petitions.

Consultations were held in Washington, DC with representatives of GOSL on January 14, 2016, and with representatives from GOI on January 28, 2016.<sup>16</sup> The GOC did not accept our invitation to hold consultations before the initiation.<sup>17</sup> All invitation letters and memoranda regarding these consultations are on file electronically via ACCESS.

### Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or

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<sup>16</sup> See Memorandum to the File from Whitley Herndon, Analyst, entitled, "Consultations with Officials from the Government of Sri Lanka Regarding the Countervailing Duty Petition Concerning Certain New Pneumatic Off-The-Road Tires (Off Road Tires) from Sri Lanka," dated January 15, 2016; and Memorandum to the File from Spencer Toubia, Analyst, entitled, "Countervailing Duty Petition on Certain New Pneumatic Off-The-Road Tires from India: Consultations with the Government of India," dated January 28, 2016.

<sup>17</sup> See Letter from Erin Begnal, Director, Office III, entitled, "Countervailing Duty Petition on Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Invitation for Consultations to Discuss the Countervailing Duty Petition," dated January 11, 2016.

opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>18</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>19</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

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<sup>18</sup> See section 771(10) of the Act.

<sup>19</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

With regard to the domestic like product, Petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we determined that off road tires constitute a single domestic like product and we analyzed industry support in terms of that domestic like product.<sup>20</sup>

In determining whether Petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in Appendix I of this notice. To establish industry support, Petitioners provided Titan’s production of the domestic like product in 2015 and estimated the 2015 production for each remaining U.S. producer of off road tires, by plant. Petitioners based their estimates of 2015 off road tire production by plant on daily plant-specific production capacity data published in *Modern Tire Dealer*. Petitioners multiplied the daily production capacity data by 360 (to estimate annual capacity) and then multiplied the annual production capacity for each plant by Titan’s capacity utilization rate, which Petitioners believe is representative of the U.S. off road tires industry (to estimate domestic production by each plant). To calculate industry support, Petitioners added Titan’s 2015 production of the domestic like product to the estimated 2015 production of the domestic like product for those plants represented by the USW, and divided the result by the estimated production of the

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<sup>20</sup> For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Certain New Pneumatic Off-the-Road Tires from India (India CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain New Pneumatic Off-the-Road Tires from India, the People’s Republic of China, and Sri Lanka (Attachment II); Countervailing Duty Investigation Initiation Checklist: Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China (PRC CVD Initiation Checklist), at Attachment II; and Countervailing Duty Investigation Initiation Checklist: Certain New Pneumatic Off-the-Road Tires from Sri Lanka (Sri Lanka CVD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.



domestic like product in 2015 for the entire U.S. off road tires industry.<sup>21</sup> We relied on the data Petitioners provided for purposes of measuring industry support.<sup>22</sup>

On January 21, 2016, we received comments on industry support from ATC Tires Private Ltd. and Alliance Tire Americas, Inc. (collectively, Alliance), an Indian producer of the subject merchandise and its U.S. importer.<sup>23</sup> Petitioners responded to these comments on January 22, 2016.<sup>24</sup> Alliance submitted additional industry support comments on January 28, 2016.<sup>25</sup> For further discussion of these comments, *see* the India CVD Initiation Checklist, PRC CVD Initiation Checklist, and Sri Lanka CVD Initiation Checklist, at Attachment II.

On January 21, 2016, we received comments on industry support from Alliance, an Indian producer of the subject merchandise and its U.S. importer.<sup>26</sup> Petitioners responded to these comments on January 22, 2016.<sup>27</sup> Alliance submitted additional industry support comments on January 28, 2016.<sup>28</sup> For further discussion of these comments, *see* the India CVD Initiation Checklist, PRC CVD Initiation Checklist, and Sri Lanka CVD Initiation Checklist, at Attachment II.

Our review of the data provided in the Petitions, General Issues Supplement, letters from Alliance and Petitioners, and other information readily available to the Department indicates that Petitioners have established industry support.<sup>29</sup> First, the Petitions established support from domestic producers and workers accounting for more than 50 percent of the total production of

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<sup>21</sup> *See* Volume I of the Petitions, at I-5 – I-9 and Exhibits I-3 – I-9 and I-33; *see also* General Issues Supplement, at 4-9 and Exhibits I-SQ-1, I-SQ-5 - I-SQ-8.

<sup>22</sup> *Id.* For further discussion, *see* India CVD Initiation Checklist, PRC CVD Initiation Checklist, and Sri Lanka CVD Initiation Checklist, at Attachment II.

<sup>23</sup> *See* Letter from Alliance, dated January 21, 2016.

<sup>24</sup> *See* Letter from Petitioners, dated January 22, 2016.

<sup>25</sup> *See* Letter from Alliance, dated January 28, 2016.

<sup>26</sup> *See* Alliance Letter.

<sup>27</sup> *See* Petitioners' Response to the Alliance Letter.

<sup>28</sup> *See* Alliance Letter II.

<sup>29</sup> *See* India CVD Initiation Checklist, PRC CVD Initiation Checklist, and Sri Lanka CVD Initiation Checklist, at Attachment II.

the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>30</sup> Second, the domestic producers and workers have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers and workers who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>31</sup> Finally, the domestic producers and workers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers and workers who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>32</sup> Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigations that they are requesting the Department initiate.<sup>33</sup>

### Injury Test

Because India, the PRC, and Sri Lanka are “Subsidies Agreement Countries” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from India, the PRC, and Sri Lanka materially injure, or threaten material injury to, a U.S. industry.

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<sup>30</sup> See section 702(c)(4)(D) of the Act; *see also* India CVD Initiation Checklist, PRC CVD Initiation Checklist, and Sri Lanka CVD Initiation Checklist, at Attachment II.

<sup>31</sup> See India CVD Initiation Checklist, PRC CVD Initiation Checklist, and Sri Lanka CVD Initiation Checklist, at Attachment II.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

### Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In CVD petitions, section 771(24)(A) of the Act provides that imports of subject merchandise must exceed the negligibility threshold of three percent, except that imports of subject merchandise from developing countries in CVD investigations must exceed the negligibility threshold of four percent, pursuant to section 771(24)(B) of the Act. Petitioners demonstrate that imports from India and Sri Lanka, which have been designated as least-developed countries under section 771(36)(B) of the Act, exceed the four percent negligibility threshold provided for under section 771(24)(B) of the Act.<sup>34</sup>

With regard to the PRC, Petitioners argue that the covered tires are entered under at least fifteen basket categories that do not permit the imports to be reliably quantified based on publicly available data. Accordingly, the data do not show whether imports from the PRC meet the statutory requirements for negligibility. However, Petitioners allege and provide supporting evidence that 1) there is a reasonable indication that data obtained in the ITC's investigation will establish that imports exceed the negligibility threshold,<sup>35</sup> and 2) there is the potential that imports from the PRC will imminently exceed the negligibility threshold. Petitioners' arguments regarding the limitations of publicly available import data and the collection of scope-specific import data in the ITC's investigation are consistent with the SAA. Furthermore, Petitioners' arguments regarding the potential for imports to imminently exceed the negligibility threshold are consistent with the statutory criteria for "negligibility in threat analysis" under section 771(24)(A)(iv) of the Act, which provides that imports shall not be treated as negligible if there

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<sup>34</sup> See Volume I of the Petitions, at I-27, I-28, I-34 and Exhibit I-17.

<sup>35</sup> See *Statement of Administrative Action* (SAA), H.R. Doc. No. 103-316, Vol. 1, (1994) (SAA), at 857; see also Volume I of the Petitions, at I-29– I-34 and Exhibits I-17 – I-21.

is a potential that subject imports from a country will imminently exceed the statutory requirements for negligibility.

Petitioners contend that the industry's injured condition is illustrated by reduced market share; decline in shipments, production, and capacity utilization; underselling and price suppression or depression; reduced employment variables; lost sales and revenues; and decline in financial performance.<sup>36</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>37</sup>

#### Initiation of Countervailing Duty Investigations

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party filed a CVD petition on behalf of an industry that: (1) alleges elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to Petitioner supporting the allegations.

Petitioners allege that producers/exporters of off road tires in India, the PRC, and Sri Lanka benefit from countervailable subsidies bestowed by the GOI, GOC, and GOSL, respectively. The Department examined the Petitions and finds that they comply with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating CVD investigations to determine whether manufacturers, producers, or exporters of off road tires from India, the PRC, and Sri Lanka receive countervailable subsidies from the GOI, GOC, and GOSL, respectively.

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<sup>36</sup> See Volume I of the Petitions, at I-18 through I-22, I-24 through I-61 and Exhibits I-14, I-15, I-17 through I-37; *see also* General Issues Supplement, at 1-3 and Exhibits I-SQ-1 and I-SQ-4.

<sup>37</sup> See India CVD Initiation Checklist, PRC CVD Initiation Checklist, and Sri Lanka CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain New Pneumatic Off-the-Road Tires from India, the People's Republic of China, and Sri Lanka.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law.<sup>38</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>39</sup> The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these CVD investigations.<sup>40</sup>

### India

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on 27 of the 29 alleged programs in India.<sup>41</sup> For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the India CVD Initiation Checklist.

### PRC

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on all 38 alleged programs in the PRC.<sup>42</sup> For a full discussion of the basis for our decision to initiate on each program, *see* the PRC CVD Initiation Checklist.

### Sri Lanka

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on 16 of the 22 alleged programs in Sri Lanka.<sup>43</sup> For a full discussion of the

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<sup>38</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

<sup>39</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

<sup>40</sup> *Id.*, at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>41</sup> See India CVD Initiation Checklist for a more detailed explanation.

<sup>42</sup> See PRC CVD Initiation Checklist for a more detailed explanation.

basis for our decision to initiate or not initiate on each program, *see* Sri Lanka CVD Initiation Checklist.

A public version of the initiation checklists for each investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

#### Respondent Selection

Petitioners named six companies as producers/exporters of off road tires from India and 17 from Sri Lanka.<sup>44</sup> Following standard practice in CVD investigations, for the India and Sri Lanka CVD cases, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of off road tires during the periods of investigation under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the scope of Appendix I, below. We intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five business days of publication of this *Federal Register* notice.

Interested parties wishing to comment regarding the CBP data and/or respondent selection for India and Sri Lanka must do so within seven calendar days after the placement of the CBP data on the record of this investigation. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments. An electronically-filed document must be received successfully in its entirety by the Department's

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<sup>43</sup> See Sri Lanka CVD Initiation Checklist for a more detailed explanation.

<sup>44</sup> See Volume I of the Petitions, at Exhibits I-13 and I-36.

electronic records system, ACCESS, by 5:00 p.m. ET by the date noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice.

With respect to the PRC, Petitioners named 28 companies as producers/exporters of off road tires.<sup>45</sup> Because of the existing CVD order on Certain New Pneumatic Off-the-Road Tires from the PRC, the Department is giving further consideration to the appropriate methodology for selecting respondents in this investigation.

#### Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the GOI, GOC, and GOSL via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of off road tires from India, the PRC, and Sri Lanka are materially injuring, or threatening material injury to, a U.S. industry.<sup>46</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country;<sup>47</sup> otherwise, these investigations will proceed according to statutory and regulatory time limits.

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<sup>45</sup> See Volume I of the Petition at Exhibit I-12.

<sup>46</sup> See section 703(a)(2) of the Act.

<sup>47</sup> See section 703(a)(1) of the Act.

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>48</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>49</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in these investigations.

### Extension of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from

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<sup>48</sup> See 19 CFR 351.301(b).

<sup>49</sup> See 19 CFR 351.301(b)(2).



multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

#### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>50</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>51</sup> The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that

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<sup>50</sup> See section 782(b) of the Act.

<sup>51</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Dated: February 3, 2016.

Paul Piquado,  
Assistant Secretary  
for Enforcement and Compliance.

## **Appendix I**

### **Scope of the Investigations**

The scope of these investigations is certain new pneumatic off-the-road tires (certain off road tires). Certain off road tires are tires with an off road tire size designation. The tires included in the scope may be either tube-type<sup>52</sup> or tubeless, radial, or non-radial, regardless of whether for original equipment manufacturers or the replacement market.

Subject tires may have the following prefix or suffix designation, which appears on the sidewall of the tire:

#### **Prefix designations:**

DH – Identifies a tire intended for agricultural and logging service which must be mounted on a DH drop center rim.

VA – Identifies a tire intended for agricultural and logging service which must be mounted on a VA multipiece rim.

IF – Identifies an agricultural tire to operate at 20 percent higher rated load than standard metric tires at the same inflation pressure.

VF – Identifies an agricultural tire to operate at 40 percent higher rated load than standard metric tires at the same inflation pressure.

#### **Suffix designations:**

ML – Mining and logging tires used in intermittent highway service.

DT – Tires primarily designed for sand and paver service.

NHS – Not for Highway Service.

TG – Tractor Grader, off-the-road tire for use on rims having bead seats with nominal +0.188" diameter (not for highway service).

K – Compactor tire for use on 5° drop center or semi-drop center rims having bead seats with nominal minus 0.032 diameter.

IND – Drive wheel tractor tire used in industrial service.

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<sup>52</sup> While tube-type tires are subject to the scope of these proceedings, tubes and flaps are not subject merchandise and therefore are not covered by the scope of these proceedings, regardless of the manner in which they are sold (*e.g.*, sold with or separately from subject merchandise).

SL – Service limited to agricultural usage.

FI – Implement tire for agricultural towed highway service.

CFO – Cyclic Field Operation.

SS – Differentiates tires for off-highway vehicles such as mini and skid-steer loaders from other tires which use similar size designations such as 7.00-15TR and 7.00-15NHS, but may use different rim bead seat configurations.

All tires marked with any of the prefixes or suffixes listed above in their sidewall markings are covered by the scope regardless of their intended use.

In addition, all tires that lack any of the prefixes or suffixes listed above in their sidewall markings are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the following sections of the Tire and Rim Association Year Book, as updated annually, unless the tire falls within one of the specific exclusions set forth below. The sections of the Tire and Rim Association Year Book listing numerical size designations of covered certain off road tires include:

The table of mining and logging tires included in the section on Truck-Bus tires;

The entire section on Off-the-Road tires;

The entire section on Agricultural tires; and

The following tables in the section on Industrial/ATV/Special Trailer tires:

- Industrial, Mining, Counterbalanced Lift Truck (Smooth Floors Only);
- Industrial and Mining (Other than Smooth Floors);
- Construction Equipment;
- Off-the-Road and Counterbalanced Lift Truck (Smooth Floors Only);
- Aerial Lift and Mobile Crane; and
- Utility Vehicle and Lawn and Garden Tractor.

Certain off road tires, whether or not mounted on wheels or rims, are included in the scope. However, if a subject tire is imported mounted on a wheel or rim, only the tire is covered by the scope. Subject merchandise includes certain off road tires produced in the subject countries whether mounted on wheels or rims in a subject country or in a third country. Certain off road tires are covered whether or not they are accompanied by other parts, *e.g.*, a wheel, rim, axle parts, bolts, nuts, etc. Certain off road tires that enter attached to a vehicle are not covered by the scope.

Excluded from the scope of these investigations are any products covered by the existing antidumping and countervailing duty orders on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China. *See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less*

*Than Fair Value and Antidumping Duty Order*, 73 FR 51624 (September 4, 2008); *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Countervailing Duty Order*, 73 FR 51627 (September 4, 2008).<sup>53</sup>

In addition, specifically excluded from the scope are passenger vehicle and light truck tires, racing tires, mobile home tires, motorcycle tires, all-terrain vehicle tires, bicycle tires, on-road or on-highway trailer tires, and truck and bus tires. Such tires generally have in common that the symbol "DOT" must appear on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such excluded tires may also have the following prefixes and suffixes included as part of the size designation on their sidewalls:

Prefix letter designations:

AT – Identifies a tire intended for service on All-Terrain Vehicles;

P – Identifies a tire intended primarily for service on passenger cars;

LT – Identifies a tire intended primarily for service on light trucks;

T – Identifies a tire intended for one-position "temporary use" as a spare only; and

ST – Identifies a special tire for trailers in highway service.

Suffix letter designations:

TR – Identifies a tire for service on trucks, buses, and other vehicles with rims having specified rim diameter of nominal plus 0.156" or plus 0.250";

MH – Identifies tires for Mobile Homes;

HC – Identifies a heavy duty tire designated for use on "HC" 15" tapered rims used on trucks, buses, and other vehicles. This suffix is intended to differentiate among tires for light trucks, and other vehicles or other services, which use a similar designation.

Example: 8R17.5 LT, 8R17.5 HC;

LT – Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service;

ST – Special tires for trailers in highway service; and

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<sup>53</sup> In these prior investigations, the Department found that imports of off road tires mounted on wheels were not within the scope of subject merchandise. See *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 19.

M/C – Identifies tires and rims for motorcycles.

The following types of tires are also excluded from the scope: Pneumatic tires that are not new, including recycled or retreaded tires and used tires; non-pneumatic tires, including solid rubber tires; aircraft tires; and turf, lawn and garden, and golf tires. Also excluded from the scope are mining and construction tires that have a rim diameter equal to or exceeding 39 inches. Such tires may be distinguished from other tires of similar size by the number of plies that the construction and mining tires contain (minimum of 16) and the weight of such tires (minimum 1500 pounds).

The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.1025, 4011.20.1035, 4011.20.5030, 4011.20.5050, 4011.61.0000, 4011.62.0000, 4011.63.0000, 4011.69.0050, 4011.92.0000, 4011.93.4000, 4011.93.8000, 4011.94.4000, 4011.94.8000, 8431.49.9038, 8431.49.9090, 8709.90.0020, and 8716.90.1020. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.4550, 4011.99.8550, 8424.90.9080, 8431.20.0000, 8431.39.0010, 8431.49.1090, 8431.49.9030, 8432.90.0005, 8432.90.0015, 8432.90.0030, 8432.90.0080, 8433.90.5010, 8503.00.9560, 8708.70.0500, 8708.70.2500, 8708.70.4530, 8716.90.5035 and 8716.90.5055. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.  
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